

## ZONING BOARD OF APPEALS SOUTHAMPTON, MA 01073

### FEBRUARY 13, 2012 MINUTES

ZBA Members Present: Ryan Geeleher, Chairman  
Michael Sacco  
Tom Sears  
Nilda Cohen  
Linda Hiesiger (alternate)

ZBA Members Absent:

Others Present: Claire LeDuc, home owner 39 Gunn Road  
Michael Pill, Esquire, Attorney for Ms. Leduc  
Abutters to 39 Gunn Road

7:00 p.m. Meeting Called to Order

#### Regular Business:

- Michael Sacco advised the Board of his meeting with the Personnel Board regarding the clerk's position. The Personnel Board indicated that they cannot continue indefinitely with Janine Domina being paid more than other similarly situated individuals, noting that the position has been "scored" at an hourly rate of pay which is less than Ms. Domina is receiving
- Following the discussion, Michael made a motion to table the matter until such time as the Chairman can meet with the Personnel Board to further discuss the matter. Nilda seconded. Unanimous.

7:15 p.m. Hearing -

**Applicant: Claire Leduc  
Gunn Road**

- Chairman opened the hearing at approximately 7:15 p.m. regarding the appeal from a December 16, 2011 decision and order by the Building Inspector regarding chickens being on the property at 39 Gunn Road
- Tape recorder malfunction prevented the matter from being recorded, parties informed

- Chairman read an overview of the issue and confirmed that the abutters had been notified of the hearing, only Pioneer Valley Railroad did not return notice
- There were no conflicts of interest on the part of the ZBA members
- Michael Pill, Esquire, presenting on behalf of Ms. Leduc, argued that this case is more a private nuisance case rather than a zoning issue, and that in his opinion, Town Counsel has misinterpreted the accessory use language in the Zoning Bylaws to be all inclusive, which was the basis for the determination that the chickens on the property must be removed
- Attorney Pill confirmed that there are 19 birds, 5 ducks, 2 turkeys, 1 rooster, 11 hens, 13 rabbits and 2 dogs on the property; Attorney Pill stated that Claire Leduc sells eggs on occasion at local farmers market
- ZBA informed by Richard Olesak that a complaint originally came in because of the odor, and that there has been compliance with clean up
- Following Attorney Pill's presentation, which also included a January 9, 2012 letter and attachments which are herein incorporated by reference, Michael stated that he would like to give Town Counsel an opportunity to respond to the legal arguments presented by Attorney Pill before making a final ruling on the matter
- Abutters/members of the public were allowed to speak and had complaints about the smell and the run off onto their property
- Michael responded by saying that while those issues are certainly valid, the purpose of the hearing was only to determine whether the basis of the December 16, 2011 decision was correct
- Following some discussion among the ZBA members, Michael moved to table the matter until March 5, 2012 to allow the Chairman to contact the Board of Selectmen to see if they would authorize Town Counsel to respond to the issues raised by Attorney Pill. Linda seconded. Unanimous.
- Attorney Pill stated that he would waive the 100 day rule on acting on the appeal, he preferred to have the matter resolved at the ZBA level rather than having to file a lawsuit which will just result in more costs to the Town to litigate

Hearing suspended at 8:11 p.m.

Minutes reviewed and approved as written  
by majority vote on \_\_\_\_\_

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There being no further business before the Board

Meeting adjourned

*Minutes reviewed and approved as written by majority vote on*  
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Ryan Geeleher, Chair

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Michael Sacco

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Tom Sears

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Nilda Cohen

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Linda Hiesiger

Respectfully submitted,  
Michael Sacco  
ZBA Member